

**REMARKS/ARGUMENTS**

Reconsideration and favorable action is respectfully requested in view of the above amendments and the following remarks. Currently, claims 22-33 are pending in the present application.

**Rejection under 35 U.S.C. § 103:**

Claims 22-33 were rejected under 35 U.S.C. § 103 as being allegedly being unpatentable over Reber et al. (“Reber”) in view of Sweat et al. (“Sweat”). Applicant traverses this rejection.

In order to establish a *prima facie* case of obviousness, all of the claim limitations must be taught or suggested by the prior art. The combination of Reber and Sweat fails to teach or suggest all of the claim limitations. For example, the combination of Reber and Sweat fails to teach or suggest “A method of automatically composing a media article according to a template specifying the desired characteristics of the media article and having a plurality of sections, at least one of which contains a query, the method comprising: iteratively finding each section in the template and executing any query in that section to return a selection of media objects... (emphasis added)” as required by independent claim 22 and its dependents. The combination of Reber and Sweat also fails to teach or suggest “wherein the apparatus further comprises one or more digital processors in communication with said one or more memory devices and operable to compose a media article according to a template specifying the desired characteristics of

the media article and having a plurality of sections, at least one of which contains a query, by: iteratively finding each section in the template and executing any query in that section to return a selection of media objects each of which is associated with a corresponding media element...(emphasis added)” as required by independent claim 27 and its dependents.

There is clearly no disclosure in Reber of the use of any templates. Indeed, section 6 (page 3) of the previous Office Action (8/28/2009) admits “Applicant argues that Reber does not disclose any use of templates. The Examiner has to agree with this (emphasis added).”

Since “Reber does not disclose any use of templates” as admitted by the Examiner, Reber clearly does not further disclose “a template specifying the desired characteristics of the media article and having a plurality of sections, at least one of which contains a query” as required by claim 22 or “a template specifying the desired characteristics of the media article and having a plurality of sections, at least one of which contains a query” as required by claim 27. That is, Reber fails to disclose any use of a template and thus fails to disclose any use of a template containing a query.

As a further example that Reber fails to disclose a template containing a query, col. 11, lines 39-41 (specifically cited by the Final Office Action on page 3) of Reber merely states “The system offers the capability of dynamically linking the client of the media with the media available at the run time of the application. Such links are possibly different with...” There is no explicit or implicit mention of a query in this passage of

Reber. There is nothing that even remotely suggests anything equating to a query. For example, a link (even if dynamic) is rather different than a query.

Sweat fails to resolve the above deficiency of Reber. Like Reber, Sweat does not teach or suggest templates or their use as required by the present claims.

In particular, the Office Action's allegation that the palette of Sweat corresponds to a template is incorrect. The palettes in Sweat do not store queries or anything remotely like a query which can be used to form the basis of a search for media elements, but rather icons each of which represents a particular function which can be dragged from the palette into the "iconic editor pane 68" and used to visually create an application in a similar way to the way in which visual BASIC programming is performed.

For example, Sweat explicitly discloses "FIG. 6 illustrates a module palette displayed on the monitor by the present invention; [and] FIG. 7 illustrates a tool palette displayed on the monitor by the present invention (emphasis added)." Even under a broadest reasonable interpretation, one of ordinary skill in the art would not interpret a template having a query (as claimed) to read on either of the "palettes" disclosed in Fig. 6 or Fig. 7, let alone interpret a template having a query which can be used to form the basis of a search for media elements to read on either of the "palettes" disclosed in Fig. 6 or Fig. 7. Sweat also explicitly discloses "The present invention is similar to a drawing program, in that an operator works in windows displayed by the computer and creates objects by selecting them from palettes of icons (emphasis added)" in col. 2, lines 30-34. As discussed above, Sweat thus merely discloses icons, representing respective functions,

which can be dragged from the palette. There is no teaching or suggestion of a template containing a query which can be used to form the basis of a search for media elements.

Page 3 of the Office Action alleges “The Examiner further notes that whether a palette has a ‘query’ does not determine its status as a template.” However, the clear and unambiguous language of claims 22 and 27 respectively recites “a template specifying the desired characteristics of the media article and having a plurality of sections, at least one of which contains a query” in claim 22 or “a template specifying the desired characteristics of the media article and having a plurality of sections, at least one of which contains a query” in claim 27. The template required by the clear and unambiguous language of claims 22 and 27 thus requires a query. Accordingly, even if Sweat were to disclose a template (which it doesn’t – as Sweat’s palette of icons fails to teach or suggest a template), Sweat still fails to teach or suggest the template as claimed, which includes a template having a query which can be used to form the basis of a search for media elements.

Col. 4 lines 59-67 and col. 5, lines 1-2 (specifically cited by page 3 of the Final Office Action) of Sweat disclose the following:

“FIGS. 3 and 4 depict structures for storing the object and the container modules, respectively. The object module structure 42 includes a title/icon buffer 44 for storing a textual description and an icon representation, a ‘type of module’ buffer 46 containing information on whether the module comprises functional, video, audio, text, bitmap, animation, or still figure data, a ‘connections’ buffer 48 identifying to which other modules connection is made, a ‘branching’ buffer 50 for identifying any branching activity within the module, and a

media or functional buffer 52 for storing digitized media or functional data.”

The above passage of Sweat fails to disclose a template, let alone as template having a query as claimed. There is no explicit mention of “template” or “query” in this passage, and the presence of connections buffer 48 does not turn any alleged template into a template containing a query.

Accordingly, even if Sweat and Reber were combined as proposed by the Office Action, the combination would not have taught or suggested all of the claim limitations. Even if Sweat and Reber were combined as proposed by the Office Action, the combination would also not have taught or suggested an automatic composition of a media article. Instead, this would still be done manually by a human editor. For example, in Reber, an editor chooses the order in which content is to be included in the final sequence. Sweat merely provides a tool which assists a user in composing a media article. Sweat does not contemplate that the computer will decide the order in which video clips are shown in a finalized application. There is also no teaching or suggestion of execution of a query to return a selection of media objects, analysis of the digital metadata of the returned/selected media objects, or any arrangement on the basis of the analysis of the metadata.

Claim 22 further requires analyzing the digital metadata of the selected media objects, which digital metadata includes: related media object identity data identifying a related media object, the media object containing the related media object identity data and the related media object being referred to as related media objects, and relationship

data which indicates the type of relationship between what is represented by the respective media elements corresponding to the related media objects.” The related media object identity data and the relationship data are thus explicitly used by the analyzing step. This is not taught or suggested by the combination of Reber and Sweat. That is,

Additionally, contrary to the apparent allegations of the Office Action, neither Reber nor Sweat teaches using any kind of relationship data to control the arrangement of the media as claim. For example, the portion (col. 4, lines 59-67 and col. 5, lines 1-2 of Sweat) specifically cited by the Final Office Action as teaching related media object identity data and relationship data actually just describes the data structure of the object modules used for storing media and associated data. None of this data could sensibly described as “relationship data which indicates the type of relationship between ... related media objects.” It is therefore clear that this data cannot be used for the purpose of arranging media elements “in dependence upon the type of relationship of the related media objects forming some or all of the selected media objects, or identifiers thereof, as determined by the metadata analysis” as required by claim 22 or similarly required by claim 27.

Applicant therefore respectfully requests that the rejection under 35 U.S.C. §103 over Reber in view of Sweat be withdrawn.

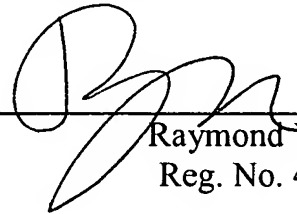
**Conclusion:**

Applicant believes that this entire application is in condition for allowance and respectfully requests a notice to this effect.

Respectfully submitted,

**NIXON & VANDERHYE P.C.**

By: \_\_\_\_\_

  
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